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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA- WESTERN DISTRICT**

MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.,
and MERSCORP HOLDINGS, INC.,

Plaintiffs,

v.

DANIEL W. ROBINSON and DARLA
J. ROBINSON,

Defendants.

CASE NO.: CV13-07142-PSG (ASx)

ANSWER OF DEFENDANTS DANIEL
W. ROBINSON and DARLA J.
ROBINSON TO THE PLAINTIFFS'
FIRST AMENDED COMPLAINT.

Demand For Jury Trial

Date Filed: September 26, 2013
Judge: Hon. Philip S. Gutierrez
Courtroom: 880

255 East Temple Street
Los Angeles, California 90012

Defendants Daniel W. Robinson and Darla J. Robinson answer the First Amended
Complaint of Plaintiffs Mortgage Electronic Registration Systems, Inc. and
MERSCORP Holdings Inc. as follows:

1 1. Defendants admit in part and deny in part the allegations in paragraph 1;
2 Defendants admit the first allegation that this is an action to set aside a state court
3 judgment in a Quiet Title action, but Plaintiffs deny that the court judgment in the quiet
4 title action was entered in violation of the mandatory requirements of §760.010-764.045
5 of the California Code of civil Procedure (“CCP”) governing quiet title actions and in
6 violation of Plaintiffs’ due process rights under the 5th and 14th amendments to the
7 United States Constitution and Article I, Section 7 of the California Constitution.
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10 2. Defendants deny the allegations contained in Paragraph 2 of the FAC.
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12 3. Defendants deny the allegations contained in Paragraph 3 of the FAC.
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14 4. Defendants have no information or belief that the allegations in Paragraph 4
15 of the FAC are true, so Defendants deny them.

16 5. Defendants deny the allegations contained in Paragraph 5 of the FAC.
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18 6. Defendants deny the allegations contained in Paragraph 6 of the FAC.
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20 7. Defendants admit the allegations contained in Paragraph 7 of the FAC.
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22 8. Defendants have no information or belief that the allegations in Paragraph 8
23 of the FAC are true, so Defendants deny them.

24 9. Defendants have no information or belief that the allegations in Paragraph 9
25 of the FAC are true, so Defendants deny them.

26 10. Defendants admit the allegations contained in Paragraph 10 of the FAC.
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28 11. Defendants admit the allegations contained in Paragraph 11 of the FAC.

1 12. Defendants admit the allegations contained in Paragraph 12 of the FAC.

2 13. Defendants admit the allegations contained in Paragraph 13 of the FAC.

3 14. Defendants deny the allegations contained in Paragraph 14 of the FAC.

4 15. Defendants admit the allegations contained in Paragraph 15 of the FAC.

5 16. Defendants admit the allegations contained in Paragraph 16 of the FAC.

6 17. Defendants admit the allegations contained in Paragraph 17 of the FAC

7 18. Defendants admit the allegations contained in Paragraph 18 of the FAC.

8 19. Defendants admit the allegations contained in Paragraph 19 of the FAC.

9 20. Defendants have no information or belief that the allegations in Paragraph
10 20 of the FAC are true, so Defendants deny them.

11 21. Defendants admit the allegations contained in Paragraph 21 of the FAC.

12 22. Defendants have no information or belief that the allegations in Paragraph
13 22 of the FAC are true, so Defendants deny them.

14 23. Defendants have no information or belief that the allegations in Paragraph
15 23 of the FAC are true, so Defendants deny them.

16 24. Defendants have no information or belief that the allegations in Paragraph
17 24 of the FAC are true, so Defendants deny them.

18 25. Defendants have no information or belief that the allegations in Paragraph
19 25 of the FAC are true, so Defendants deny them.

1 26. Defendants have no information or belief that the allegations in Paragraph
2 26 of the FAC are true, so Defendants deny them.

3 27. Defendants deny the allegations contained in Paragraph 27 of the FAC.
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5 28. Defendants deny the allegations contained in Paragraph 28 of the FAC.

6 29. Defendants have no information or belief that the allegations in Paragraph
7 29 of the FAC are true, so Defendants deny them.
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9 30. Defendants admit in part and deny in part the allegations in Paragraph 30 of
10 the FAC; Defendants deny the first the third allegation and admit the second allegation
11 that “there is no requirement under California’s recording statutes for recordation in the
12 public land records to reflect the purchase and sale of the promissory note or the loan
13 servicing rights” and the fourth allegation that “recording is permissive, not mandatory
14 in California.”
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17 31. Defendants have no information or belief that the allegations in Paragraph
18 31 of the FAC are true, so Defendants deny them.
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20 32. Defendants have no information or belief that the allegations in Paragraph
21 32 of the FAC are true, so Defendants deny them.
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23 33. Defendants have no information or belief that the allegations in Paragraph
24 33 of the FAC are true, so Defendants deny them.
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26 34. Defendants have no information or belief that the allegations in Paragraph
27 34 of the FAC are true, so Defendants deny them.
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1 35. Defendants have no information or belief that the allegations in Paragraph
2 35 of the FAC are true, so Defendants deny them.

3 36. Defendants have no information or belief that the allegations in Paragraph
4 36 of the FAC are true, so Defendants deny them.

5 37. Defendants have no information or belief that the allegations in Paragraph
6 37 of the FAC are true, so Defendants deny them.

7 38. Defendants admit the allegations in Paragraph 38 of the FAC.

8 39. Defendants admit in part and deny in part the allegations in Paragraph 39 of
9 the FAC. Defendants admit the first allegation that “a ‘claim’ is defined in
10 CCP§760.010 as “including a legal or equitable right, title, estate, lien, or interest in
11 property or cloud upon title” but Defendants have no information or belief that the
12 “Committee Comments state that the word “claim” is to intended in the broadcast [sic]
13 possible sense” is true or false, so Defendants deny this allegation.
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15 40. Defendants admit the allegations in Paragraph 40 of the FAC.

16 41. Defendants admit in part and deny in part the allegations in Paragraph 41 of
17 the FAC; Defendants admit the first, second, and fourth allegation, but deny the third
18 allegation that “Entities such as MERS, must be named as defendants if they merely
19 assert a claim – an interest – that is adverse to the plaintiff’s asserted title.”
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21 42. Defendants admit the allegations in Paragraph 42 of the FAC.
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1 43. Defendants admit the allegations in Paragraph 43 of the FAC as follows:

2 Defendants admit that the court must require prove-up before entering judgment.

3 44. Defendants admit the allegations in Paragraph 44 of the FAC.

4 45. Defendants admit the allegations in Paragraph 45 of the FAC.

5 46. Defendants admit the allegations in Paragraph 46 of the FAC.

6 47. Defendants admit the allegations in Paragraph 47 of the FAC.

7 48. Defendants admit the allegations in Paragraph 48 of the FAC.

8 49. Defendants admit the allegations in Paragraph 49 of the FAC.

9 50. Defendants admit the allegations in Paragraph 50 of the FAC.

10 51. Defendants admit the allegations in Paragraph 51 of the FAC.

11 52. Defendants have no information or belief that the allegations in Paragraph
12 52 of the FAC are true, so Defendants deny them.

13 53. Defendants deny the allegations in Paragraph 53 of the FAC.

14 54. Defendants have no information or belief that the allegations in Paragraph
15 54 of the FAC are true, so Defendants deny them.

16 55. Defendants have no information or belief that the allegations in Paragraph
17 55 of the FAC are true, so Defendants deny them.

18 56. Defendants admit the allegations in Paragraph 56 of the FAC.

19 57. Defendants admit the allegations in Paragraph 57 of the FAC.

20 58. Defendants admit the allegations in Paragraph 58 of the FAC.

1 59. Defendants admit in part and deny in part the allegations in Paragraph 59 of
2 the FAC. Defendants have no information or belief that the first allegation is true and so
3 Defendants deny it. Defendants deny the second allegation which misquotes Plaintiffs'
4 complaint by leaving out the word "purported." Defendants admit the third allegation.
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6 60. Defendants deny the allegations in Paragraph 60 of the FAC.
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8 61. Defendants admit in part and deny in part the allegations in Paragraph 61 of
9 the FAC. Defendants admit the first and second allegations, but deny the third allegation
10 which states: "That allegation was and is false and the Robinsons knew that it was false
11 at the time that they filed the complaint."
12

13 62. Defendants admit in part and deny in part the allegations in Paragraph 62 of
14 the FAC. Defendants admit the first allegation (sentence), but deny the second
15 allegation (sentence) that "That allegation was and is false and the Robinsons knew that
16 it was false at the time that they filed the complaint."
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19 63. Defendants admit in part and deny in part the allegations in Paragraph 63 of
20 the FAC. Defendants admit the first allegation, but deny the second allegation which
21 states: "That allegation was and is false and the Robinsons knew that it was false at the
22 time that they filed the complaint."
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25 64. Defendants admit in part and deny in part the allegations in Paragraph 64 of
26 the FAC. Defendants deny the second allegation that MERS was not named as a
27 defendant "despite the Robinsons' actual knowledge that MERS claimed an interest in
28

1 the property adverse to the Robinson's claim of title and that United Pacific no longer
2 owned the Note." Defendants admit the first allegation and the third allegation that "The
3 Robinsons never supplied any notice to MERS of the pendency of the quiet title action."

4
5 65. Defendants admit in part and deny in part the allegations in Paragraph 65 of
6 the FAC. Defendants admit the first and fourth allegations, but Defendants deny the
7 second allegations that "the Robinsons did not properly notify United Pacific of the
8 hearing on their request for default judgment" and Defendants deny the third allegation
9 that: "in any event, as the Robinsons knew, United Pacific was not the record beneficiary
10 on the Deed of Trust and no longer had any interest in the Note."

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13 66. Defendants admit in part and deny in part the allegations in Paragraph 66 of
14 the FAC. Defendants admit the first allegation. Defendants deny the second allegation
15 that the "Closed Loan Forensic Report" by Legal Forensic Auditors "clearly states that
16 the Deed of Trust was entered in favor of MERS" and that it "identifies U.S. Bank as the
17 owner of the Note as trustee for the securitized trust."

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20 67. Defendants admit in part and deny in part the allegations in Paragraph 67 of
21 the FAC. Defendants admit the first allegation and Defendants deny the second
22 allegation which states that: "the allegation is and was false and the Robinsons knew it
23 was false at the time they filed their quiet title action."

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26 68. Defendants admit the allegations in Paragraph 68 of the FAC.
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1 69. Defendants admit in part and deny in part the allegations in Paragraph 69 of
2 the FAC. Defendants admit the first allegation. Defendants have no information or
3 belief that the second allegation is true, that MERS did not have notice of the Quiet Title
4 action, so Defendants deny it. Defendants deny the third allegation that they made “false
5 and fraudulent misrepresentations.”
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8 70. Defendants admit the allegations in Paragraph 70 of the FAC.

9 71. Defendants admit the allegations in Paragraph 71 of the FAC.

10 72. Defendants deny the allegations in Paragraph 72 of the FAC.

11 73. Defendants deny the allegations in Paragraph 73 of the FAC.

12 74. Defendants have no information or belief that the allegations in Paragraph
13 74 of the FAC are true, so Defendants deny them.
14

15 75. Defendants have no information or belief that the allegations in Paragraph
16 75 of the FAC are true, so Defendants deny them.
17

18 76. Defendants have no information or belief that the allegations in Paragraph
19 76 of the FAC are true, so Defendants deny them.
20

21 77. Defendants admit in part and deny in part the allegations in Paragraph 77 of
22 the FAC. Defendants admit the first allegation and the third allegation, but deny the
23 second allegation that Defendants “asked the state court to adjudicate the validity of
24 MERS’ interest as record beneficiary.”
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1 78. Defendants have no information or belief that the allegations in Paragraph
2 78 of the FAC are true, so Defendants deny them.

3 79. Defendants have no information or belief that the allegations in Paragraph
4 79 of the FAC are true, so Defendants deny them.

5 80. Defendants deny the allegations in Paragraph 80 of the FAC.

6 81. Defendants have no information or belief that the allegations in Paragraph
7 81 of the FAC are true, so Defendants deny them.

8 82. Defendants deny the allegations in Paragraph 82 of the FAC.

9 83. Defendants deny the allegations in Paragraph 83 of the FAC.

10 84. Defendants have no information or belief that the allegations in Paragraph
11 84 of the FAC are true, so Defendants deny them.

12 85. Defendants re-allege and incorporate herein Paragraphs 1-84 of their
13 Answer to Plaintiffs' FAC.

14 86. Defendants deny the allegations in Paragraph 86 of the FAC.

15 87. Defendants deny the allegations in Paragraph 87 of the FAC.

16 88. Defendants deny the allegations in Paragraph 88 of the FAC.

17 89. Defendants admit in part and deny in part the allegations in Paragraph 89 of
18 the FAC. Defendants admit the first allegation, but deny the second, third, and fourth
19 allegations.

20 90. Defendants deny the allegations in Paragraph 90 of the FAC.

1 91. Defendants deny the allegations in Paragraph 91 of the FAC.

2 92. Defendants deny the allegations in Paragraph 92 of the FAC.

3 93. Defendants deny the allegations in Paragraph 93 of the FAC.

4 94. Defendants re-allege and incorporate herein Paragraphs 1-93 of their
5 Answer to Plaintiffs FAC.
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7 95. Defendants admit the allegations in Paragraph 95 of the FAC.

8 96. Defendants deny the allegations in Paragraph 96 of the FAC.

9 97. Defendants have no information or belief that the allegations in Paragraph
10 97 of the FAC are true, so Defendants deny them.
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12 98. Defendants deny the allegations in Paragraph 98 of the FAC.

13 99. Defendants deny the allegations in Paragraph 99 of the FAC.

14 100. Defendants admit in part and deny in part the allegations in Paragraph 100
15 of the FAC. Defendants admit the first allegation, but Defendants deny the second
16 allegation that their Quiet Title was obtained “in violation of MERS’ property rights.”
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18 101. Defendants deny the allegations in Paragraph 101 of the FAC.

19 102. Defendants re-allege and incorporate herein Paragraphs 1-101 of their
20 Answer to Plaintiffs’ FAC.
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22 103. Defendants admit the allegations in Paragraph 103 of the FAC.

23 104. Defendants deny the allegations in Paragraph 104 of the FAC.

24 105. Defendants deny the allegations in Paragraph 105 of the FAC.
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THIRD DEFENSE

110. As a THIRD and Separate Defense to the FAC, and each claim for relief contained therein, these answering Defendants state that Plaintiffs are not the real party in interest and are not otherwise authorized to initiate suit on the real party's behalf and therefore have no standing to bring this action.

FOURTH DEFENSE

111. Without waiving their defense of lack of subject matter jurisdiction in this action, and alternatively thereto, as a FOURTH and Separate Affirmative Defense to the FAC, and each claim for relief contained therein, these answering Defendants state that Plaintiffs' claims are not ripe since a state court remedy is available pursuant to California Civil Code of Procedure §473(d) which allows for a state court motion to set aside a void state court judgment including an allegedly void default judgment.

FIFTH DEFENSE

112. As a FIFTH and Separate Defense to the FAC, and each claim for relief contained therein, these answering Defendants state that this court does not have Subject Matter Jurisdiction because Plaintiffs are not a real party in interest.

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FIRST AFFIRMATIVE DEFENSE

113. As a FIRST and Separate Affirmative Defense to the FAC, and each claim for relief contained therein, these answering Defendants state that Plaintiffs are not the holder of Defendants' Promissory NOTE and Mortgage upon which this action is based and therefore relief requested is barred.

SECOND AFFIRMATIVE DEFENSE

114. As an THIRD and Separate Affirmative Defense to the FAC, and each claim for relief contained therein, these answering Defendants state that Plaintiffs are not the owner of Defendants' Promissory NOTE and Mortgage upon which this action is based and therefore relief requested is barred.

THIRD AFFIRMATIVE DEFENSE

115. As a THIRD and Separate Affirmative Defense to the FAC and each claim for relief contained therein, these answering Defendants state that Plaintiffs are not in possession of the Promissory NOTE and mortgage upon which this action is based and therefore relief requested is barred.

FOURTH AFFIRMATIVE DEFENSE

116. As a FOURTH and Separate Affirmative Defense to the FAC, and each claim for relief contained therein, these answering Defendants state that Plaintiffs are not the lawful ASSIGNEE of the Promissory NOTE and Mortgage upon which Plaintiffs' claims are based.

FIFTH AFFIRMATIVE DEFENSE

117. As a FIFTH and Separate Affirmative Defense to the FAC, and each claim for relief contained therein, these answering Defendants state that Plaintiffs have unclean hands due to the deceptive language on Defendants' Deed of Trust which does not inform borrowers that the Deed of Trust creates a cloud upon title.

SIXTH AFFIRMATIVE DEFENSE

118. As an SIXTH and Separate Affirmative Defense to the FAC, and each claim for relief contained therein, these answering Defendants state that upon information and belief, the Promissory NOTE has been paid in full prior to or contemporaneously with the loan transaction, that Plaintiffs have no financial interest in the Promissory NOTE or the Deed of Trust, and that the original Promissory NOTE and mortgage are lost or destroyed.

SEVENTH AFFIRMATIVE DEFENSE

119. As a SEVENTH and Separate Affirmative Defense to the FAC, and each claim for relief contained therein, these answering Defendants state that Plaintiffs' claims are barred by the statute of frauds, laches, and/ or the statute of limitations.

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2 WHEREFORE, in view of the foregoing, Defendants respectfully pray for:

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4 1.) Costs

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6 2.) Attorney fees

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8 3.) Such other and further relief as this court may deem just and proper.

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10 Defendants hereby demand a trial by jury.

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12
13 Respectfully submitted,

14 Dated: May 22, 2014

15 ADVOCATE LEGAL

16 By: /s/ Susan M. Murphy.

17 Susan M. Murphy

18 Attorney for Defendants

19 DANIEL W. ROBINSON and

20 DARLA J. ROBINSON
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